



## Living Constitution in Islamic Constitutional Law: A Comparative Study of Gorontalo Customary Constitutional Law in Majority and Minority Enclave Contexts

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### ABSTRACT

This study analyzes the operationalization of Gorontalo customary law as a living constitution within the framework of Islamic Constitutional Law in two different demographic contexts: a Muslim majority society in Gorontalo Province (98.1%) and a Muslim minority enclave in Ternate Tanjung Sub-District, Manado City (86.7% at the sub-district level and 31.9% at the city level). Using a socio-legal comparative research approach, this study examines how adat-Islamic constitutional norms function, adapt, and obtain legitimacy within different constitutional structures. Data were collected through in-depth interviews with four key informants, comprising two Gorontalo customary leaders and two Manado community leaders. The findings demonstrate that the principle "*Adati bula-bulaa to Syara', Syara' bula-bulaa to Qur'ani*" functions as the basic norm (substantive grundnorm) of Gorontalo Islamic Constitutional Law that remains stable across demographic contexts. However, the constitutional operationalization mechanism undergoes transformation. In the Muslim majority context, customary law operates formally through the *Buwatulo Taulongo* institution, which enjoys dual legitimacy, both customary and state, thereby forming a local living constitutional order. Conversely, in the Muslim minority context, customary law operates flexibly-informally through family deliberation and ad-hoc mediation by sub-district officials, imams, and the Office of Religious Affairs. This transformation is not degradation, but rather constitutional rearticulation aligned with the principles of *Fiqh al-Aqalliyat*: *yusr*, *maslahah mursalah*, *muwatanah*, and *tadarruj*. This research develops a layered Living *Fiqh al-Aqalliyat* model from an Islamic Constitutional Law perspective, expanding the concept of a living constitution from temporal adaptation to demographic adaptation, particularly in the context of domestic Muslim minorities in Eastern Indonesia.

### How to cite:

Moonti, R. M., Kadir, Y., Bunga M., & Halfaoui, A. (2025). Living Constitution in Islamic Constitutional Law: A Comparative Study of Gorontalo Customary Constitutional Law in Majority and Minority Enclave Contexts. *Jurnal Ilmiah Al-Syir'ah*, 23(2), 339–381. <https://doi.org/10.30984/jis.v23i2.3566>

### ARTICLE INFO

#### Article History:

Submitted/ Received 23 Apr 2025

First Revised 2 Jul 2025

Accepted 18 Dec 2025

First Available online 31 Dec 2025

Publication Date 31 Dec 2025

#### Keywords:

Islamic Constitutional Law,  
Living Constitution,  
Gorontalo Customary Constitutional Law,  
Islamic Constitutionalism,  
Muslim Minority.



## 1. INTRODUCTION

Debates regarding constitutional dynamics in Indonesia within Constitutional Law studies generally revolve around two main axes. First, the constitution is understood as a basic legal norm that is legal-formal and relatively static. Second, the constitution is positioned as living constitution, namely constitutional norms that live, develop, and adapt along with social, cultural, and community value changes. The living constitution approach positions the constitution not merely as legal text, but as a normative system that reflects the Geist and collective will of the nation (de Oliveira et al., 2023). In the context of Indonesia's pluralistic Constitutional Law, this approach is relevant for explaining the existence and function of customary law as a source of constitutional normativity, including Gorontalo customary law which operates substantively both in the majority context in its region of origin and in minority enclaves in other areas such as Manado.

The concept of living constitution is an important approach in Constitutional Law that views the constitution not merely as a static basic legal document, but as a dynamic normative system responsive to changes in social, cultural, and religious values of society. This approach developed as a critique of legal positivism which interprets the constitution rigidly, formalistically, and detached from the social reality where constitutional norms are implemented (Shupitskaya, 2020). In the context of Indonesia's plural constitutional system, living constitution becomes a relevant analytical framework for understanding the integration of customary law and religious values as sources of constitutional normativity. In Gorontalo society, the adage "*Adati bula-bulaa to Syara', Syara' bula-bulaa to Qur'ani*" represents a local constitutional principle that integrates Islamic values into the customary legal system. Customary institutions such as *Buwatulo Taulongo* carry out constitutional functions by deciding cases through customary deliberation based on sharia principles, such as *maslahah* and *'adl*, so that customary law functions as a living local constitution (Subhan et al., 2024). However, how the same living constitution principle operates when the Gorontalo community is in a minority position, such as in the Muslim enclave in Ternate Tanjung Sub-District, Manado, amidst a Christian majority city, becomes an empirical issue that has not been extensively studied. This condition is crucial for understanding the adaptation and resilience of Islamic constitutional law in diverse demographic contexts (Petoft et al., 2024).

The concept of Living Constitution in Constitutional Law studies developed as a response to legal positivism that positions the constitution rigidly and textually. This approach emphasizes that the meaning and function of the constitution as the state's basic law must be interpreted dynamically, in harmony with the development of moral values, constitutional needs, and continuously changing socio-political practices (Shupitskaya, 2020). Thus, the constitution is understood as a normative system that is living, adaptive, and maintains the substance of constitutional principles in facing contemporary democratic dynamics.

However, in the context of Indonesia as a country with a pluralistic legal system, the concept of living constitution in Constitutional Law studies is not limited to the state constitution in a formal sense, but also encompasses the dynamics of local constitutional norms that live in society, including customary law. This constitutional complexity becomes increasingly significant when one community faces two different demographic realities, namely as a majority in its region of origin, such as Gorontalo, and as a minority enclave in another region, such as Manado. This condition raises questions regarding how the principle of living constitution adapts across demographic contexts. In Gorontalo, customary law does not merely function as social tradition, but as a manifestation of living local constitutional norms, based on the principle *Adati bula-bulaa*

to *Syara'*, *Syara' hula-bulaa* to *Qur'ani*, which reflects the integration between custom, Islamic sharia, and Quranic values.

The integration of Islamic values in Gorontalo customary law practice is an important characteristic that distinguishes the construction of Gorontalo adat-Islamic Constitutional Law from other customary law systems in Indonesia. As a historically and culturally strong Muslim community, Gorontalo society has developed a customary legal system that not only reflects local norms, but is also intrinsically integrated with Islamic law principles. This condition makes the study of adat-Islamic Constitutional Law in Gorontalo a unique normative entity and demands a comprehensive theoretical framework that simultaneously combines living constitution, customary law, and Islamic law perspectives. This complexity becomes more apparent when analyzed comparatively between the majority context in Gorontalo and the minority enclave in Ternate Tanjung, Manado, where the transformation and adaptation of living constitution can be observed empirically in two different demographic and constitutional realities. Therefore, a literature review regarding the relationship between state law, Islamic law, and customary law in Indonesian legal pluralism becomes crucial.

In recent decades, studies on the relationship between state law, Islamic law, and customary law from a Constitutional Law perspective have received widespread attention, particularly within the framework of legal pluralism. Studies by Djawas et al. (2024) and Hasan et al. (2021) on the harmonization of state law, custom, and Islam in Aceh show that legal pluralism not only reflects the diversity of legal sources, but also forms a dialectical space between formal constitutional authority and local normative legitimacy that lives in society. Similar findings were proposed by Luntajo & Hasan (2025) and Subhan et al. (2024), who identified the transintegration process between customary law and sharia in Jambi as a form of constitutional adaptation to the social, cultural, and historical context of society in Indonesia's constitutional system.

Although literature on adat-Islamic law in Indonesia has developed considerably, these studies are still dominated by Constitutional Law perspectives in Muslim majority society contexts. Research specifically examining Muslim minority enclaves that maintain adat-Islamic law systems as part of local living constitution remains very limited. Global studies show that Muslim minority communities develop various constitutional strategies to maintain their legal identity, ranging from integration of Islamic law with local customary law, as in the Melayu Buyan community in Indonesia (Nordin et al., 2025a) and Morella in Central Maluku (Tabroni et al., 2025), formation of parallel sharia institutions as in England (Greer, 2024), to negotiation of legal pluralism within the state law framework, as occurs in Singapore (Rahman, 2019) and South Korea (Srimulyani, 2021)). However, the application of the *Fiqh al-Aqalliyat* framework—developed primarily for Muslim minorities in the West (Al-Alwani, 2003; Qaradawi, 2001)—in the context of Eastern Indonesian Constitutional Law remains a significant literature gap. This is important because Muslim communities in Eastern Indonesia are not international diaspora, but domestic migrants who maintain the living constitution of adat-Islamic law in local constitutional environments with Christian majorities. This research fills this gap through systematic comparative study between Gorontalo as a majority context and Ternate Tanjung, Manado (Muslim enclave 86.7%) (BPS-Statistics Manado Municipality, 2025b), and offers a new theoretical model for understanding adat-Islamic constitutional law transformation across demographic contexts.

Conceptually, the living constitution approach in Constitutional Law studies to Gorontalo adat-Islamic law is not only legal-reconstructive, but also normative-theological. Gorontalo customary law cannot be separated from the Islamic value system that has been institutionalized in the social structure and community governance. In Islamic perspective, law functions as a constitutional instrument to realize divine justice that is *rahmatan lil 'alamin*. Therefore, the interpretation and application of Gorontalo customary law is always framed within Islamic values, making it part of the living Islamic Constitutional Law normativity system (Petoft et al., 2024).

This research presents significant novelty in Islamic Constitutional Law studies by positioning Gorontalo customary law as a form of living constitution that is analyzed systematically, not merely as a cultural institution, but as a local constitutional system that has normative and spiritual legitimacy. Unlike previous studies that tend to separate the discussion of customary law and sharia partially and sectorally, this research integrates three normative pillars—custom, sharia, and Quranic values—into one dynamic constitutional framework in local constitutional governance. The socio-legal approach combined with participatory methods, field observation, and analysis based on *maqasid al-shari'ah* strengthens this research's position in building a theoretical model of living constitution rooted in Islamic locality. Another important contribution is the effort to challenge legal positivism's dominance in Indonesian Constitutional Law, particularly in the recognition of customary law, while expanding the horizon of constitutionalism to be more inclusive of religious values and local wisdom of Muslim customary communities such as Gorontalo. The fundamental uniqueness of this research lies in the constitutional comparative approach between Muslim majority context in Gorontalo and Muslim minority enclave in Ternate Tanjung, Manado. This approach enables analysis of living constitution transformation and adaptation across demographic contexts, and integrates the *Fiqh al-Aqalliyyat* perspective to understand Muslim minority constitutional strategies in Eastern Indonesia—an aspect not yet explored in previous Gorontalo customary law studies and positions this research as a pioneering contribution in local constitutionalism and Muslim minority studies.

In this context, comparative research on living constitution from an Islamic Constitutional Law perspective is directed to answer five fundamental constitutional questions. First, how does Gorontalo customary law function, live, and develop as a local constitutional system in the Muslim majority society context in Gorontalo Province. Second, how does this adat-Islamic constitutional system adapt when the Gorontalo community is in a Muslim minority enclave position in Manado, particularly in Ternate Tanjung Sub-District (86.7%) within a Christian majority city (BPS-Statistics Manado Municipality, 2025a). Third, how do Islamic values form, organize, and provide normative legitimacy to customary law practice in two different demographic and structural contexts. Fourth, what *Fiqh al-Aqalliyyat* strategies are used to maintain the constitutional function of adat-Islamic law under minority conditions, including the principles of *yusr*, *takhfif*, and *maslahah daruriyyah*. Fifth, how can the living constitution framework be used to explain the adaptive integration between custom, sharia, and Quranic values across majority-minority contexts.

The study of Gorontalo customary Constitutional Law cannot be separated from the historical and philosophical foundation that forms its society's constitutional identity. The concept of *Buwatulo Taulongo* represents a customary legal institution that functions as a local constitutional institution, based on collectivism, deliberation, and consensus as the basic principle of public decision-making. These values are aligned with the shura principle in Islam and demonstrate epistemological equality between customary law and sharia as sources of constitutional

normativity. This aligns with Mulia et al. (2024) findings which show that *fiqh siyasah* in society develops through consensus mechanisms and adaptation to local social realities. In the context of Muslim minority enclaves such as Ternate Tanjung, Manado, the application of *maqasid al-shari'ah* faces different constitutional challenges, particularly in maintaining *hifz al-din* without majority dominance support, implementing *hifz al-nasl* in a plural legal system, and realizing *maslahah* through negotiation with different majority legal structures. Under these conditions, *Fiqh al-Aqalliyat* principles such as *yusr*, *takhfif*, and *maslahah* daruriyyah become adaptive constitutional instruments that enable the community to maintain adat-Islamic legal identity without losing its constitutional legitimacy.

Furthermore, within the national Constitutional Law framework, the integration between customary law and Islamic sharia not only reflects legal plurality, but also represents inclusive constitutionalism. This approach demands reconstruction of the rule of law concept that does not solely rely on rule of law in a legal-positivistic sense, but also on rule of values that live in society. In this perspective, the constitution functions not only as instrument of government, but also as instrument of values that animates constitutional practice (Costa et al., 2023).

In the Islamic Constitutional Law perspective, a living constitution oriented toward divine values is a manifestation of *maqasid al-shari'ah*. This framework positions the constitution not only as a legal document, but as a normative instrument that articulates justice, public welfare, and social balance. As explained by Suleman (2023), the values of *'adalah*, *rahmah*, and *hikmah* become ethical references in the socio-political practices and legal administration of Muslims.

This research becomes urgent in the context of Indonesian Constitutional Law which is currently facing increasing tensions between state law centralism and local aspirations to maintain autonomy in managing cultural and spiritual values. Various practices show that national legal policies often fail to accommodate sharia-based customary law because they are formulated without adequate intercultural and interlegal approaches. Examples can be seen in spatial planning and development policies in Manado that inadequately consider the needs for worship spaces and customary institutions of Muslim minority communities, as well as inheritance regulations that do not fully accommodate adat-Islamic law practices that differ from state law. This condition creates tension between formal constitutional legality and sociological legitimacy of customary law. As noted by Said et al. (2024), the relationship between state law, customary law, and Islamic law in Indonesia's constitutional system is often asymmetric, where state law imposes formal legality without considering the normative legitimacy that lives in Muslim customary communities.

Therefore, this study not only contributes academically to the development of Constitutional Law theory that is more inclusive and responsive to local realities, but also provides an empirical basis for the reconstruction of constitutional policies oriented toward the living values of society. In this context, Gorontalo can be positioned as a constitutional laboratory to formulate an adaptive adat-Islamic Constitutional Law system model toward local values and community religiosity.

Thus, this study not only functions as theoretical elaboration in Constitutional Law studies, but also serves as scientific advocacy for the recognition and strengthening of Islam-based customary law in the national constitutional system. It is hoped that this research will contribute strategically

to legal development that is just, rooted in local values, and oriented toward the welfare of the ummah.

## 2. METHODS

This study employs a qualitative approach with a socio-legal comparative research design to analyze the practice of Gorontalo adat-Islamic Constitutional Law as living constitution in two different demographic contexts, namely Gorontalo Province as a Muslim majority area and Ternate Tanjung Sub-District, Manado as a Muslim minority enclave (86.7%) (Kanwil SatuData Gorontalo, 2025). The socio-legal approach enables the integration of normative constitutional analysis of legal documents with empirical studies of socio-cultural practices, thereby producing comprehensive understanding regarding constitutional transformation across contexts (Creutzfeldt et al., 2020; Djawas et al., 2024). The comparative design is used to identify patterns of living constitution adaptation under majority and minority conditions, while integrating the *Fiqh al-Aqalliyat* framework to understand the constitutional strategies of Muslim minority communities (Al-Alwani, 2003).

This research was conducted in two locations with contrasting demographic and constitutional characteristics to analyze the operationalization of Gorontalo adat-Islamic Constitutional Law as living constitution. The first location is Gorontalo Province, which represents the Muslim majority society context with the existence of the *Buwatulo Taulongo* institution as a customary institution that functions formally and receives recognition within the local government structure. The second location is Ternate Tanjung Sub-District, Singkil District, Manado City, North Sulawesi, which represents a Muslim minority enclave in a layered demographic configuration. Based on BPS 2024 data, at the sub-district level Ternate Tanjung has 86.7% Muslim population; at the district level Singkil has 57.4% Muslims (district majority); however at the city level, Manado only has 31.9% Muslim population and is dominated by Protestant residents at 64.1% (BPS-Statistics Manado Municipality, 2025a). This multi-level configuration creates a unique constitutional position, where the Gorontalo community has majority status locally, but is structurally a minority in the city context. This condition is important for understanding living constitution transformation and the application of *Fiqh al-Aqalliyat* strategies in adat-Islamic Constitutional Law practice. The selection of these two locations aims to systematically analyze how the same adat-Islamic legal system functions, transforms, and adapts within fundamentally different constitutional structures.

This study uses a key informant approach strategy with purposive sampling to obtain in-depth understanding from actors who have direct experience in adat-Islamic law practice and community decision-making (Palinkas et al., 2015). Key informants consist of four individuals. In Gorontalo: Subroto K. Duhe, a customary leader and active member of *Buwatulo Taulongo* with more than 25 years of experience in customary law practice; and AD Khaly, a customary leader, religious scholar, and member of the *Buwatulo Taulongo* forum of Gorontalo Regency. In Manado: Ramyan H., a community leader of the Gorontalo community in Ternate Tanjung Sub-District who actively maintains adat-Islamic law practice in the city minority context; and Abdul Muis, a religious leader of the Gorontalo community in Manado who understands the application of *Fiqh al-Aqalliyat* under structural minority conditions. Informant selection was based on the following criteria: (a) minimum 15 years of involvement in customary or religious institutions; (b) in-depth understanding of the integration of Adat-Sharia-Quran; (c) concrete experience in dispute resolution and community decision-making; and (d) reflective ability to articulate legal practice.

This approach is aligned with qualitative research principles that emphasize thick description and contextual understanding in Constitutional Law analysis (Creswell & Poth, 2016).

Data analysis in this study was conducted thematically with emphasis on Constitutional Law analysis through three main stages. First, open coding was used to identify initial themes related to living constitution practice in the administration of adat-Islamic law in both demographic contexts. Second, axial coding was performed to link these themes with constitutional categories, including institutional aspects (structure and function of *Bumutulo Taulongo*), normative aspects (integration of Adat-Sharia-Quran principles), and constitutional praxis aspects (dispute resolution, marriage, and inheritance). Third, selective coding was used to build a theoretical model regarding the constitutional transformation of adat-Islamic law across demographic contexts (Strauss & Corbin, 1998). Comparative analysis was conducted using the constant comparison method to identify patterns of similarities and differences between majority and minority contexts. A critical hermeneutic approach was applied to interpret customary legal texts as constitutional norms in their socio-historical context. Furthermore, the *maqasid al-shari'ah* framework, particularly *hifz al-din*, *al-nafs*, *al-nasl*, and *al-mal*, was used to assess the conformity of customary practices with the normative objectives of sharia (Kamali, 2021). For the minority context in Manado, the analysis was enriched with the *Fiqh al-Aqalliyat* framework to identify the application of the principles of *yusr*, *takhfif*, and *maslahah daruriyyah* in maintaining the constitutional function of living constitution (Al-Alwani, 2003). The validity of the analysis was maintained through peer debriefing with Islamic law scholars and prolonged engagement in the field (Lincoln & Guba, 1989).

### 3. RESULTS AND DISCUSSION

#### **Gorontalo Customary Constitutional Law as Living Constitution in the Muslim Majority Society Context**

Customary law in Indonesia cannot be understood merely as a historical residue, but rather as a local normative structure that remains living and functioning within the plural Constitutional Law system. In the Gorontalo context, the existence of customary law even represents a form of local constitution, namely a set of institutionalized norms, institutions, and dispute resolution mechanisms that obtain social legitimacy. This local constitution becomes an important foundation in maintaining social stability and harmony among custom, religion (sharia), and Quranic values in community governance. To understand how Gorontalo customary law operates as living constitution from a Constitutional Law perspective, it is important first to establish the demographic and structural context in which the system is implemented. This research positions Gorontalo customary law in two different constitutional configurations, namely the Muslim majority society context in Gorontalo Province and the Muslim minority enclave context in Manado City. This section specifically analyzes how Gorontalo customary law lives and develops as a local constitutional system in the majority context, which functions as a comparative basis for understanding the transformation and constitutional adaptation of the same system in the minority context in subsequent discussions.

Data from the Regional Office of SatuData of the Ministry of Religious Affairs of Gorontalo Province for 2025 shows that Muslims constitute an absolute majority in Gorontalo Province, with a total of 1,198,029 people or 98.1% of the total population of 1,221,297 people. Meanwhile,

followers of other religions—Christian (17,053 people), Catholic (1,193 people), Hindu (4,115 people), Buddhist (904 people), and Confucian (3 people)—collectively comprise only 1.9% of the total population (Kanwil SatuData Gorontalo, 2025). This very high Muslim demographic dominance forms a distinctive local constitutional configuration, fundamentally different from regions with Muslim minorities. From a Constitutional Law perspective, this absolute majority condition creates a sociological and political environment that enables customary law based on Islamic values to operate assertively and formally through customary institutions such as *Bumutulo Taulongo*, without facing structural or cultural resistance from other majority value systems. Dual legitimacy—both from customary tradition and religious authority—strengthens the position of customary law as a living local constitution. This demographic configuration is a key factor in explaining the operational effectiveness of Gorontalo customary law as a local constitutional system in the majority context, while providing a comparative basis for understanding the need for system adaptation when operating in a minority context, such as in Manado City, where Muslims only reach 31.9% of the city population (BPS-Statistics Manado Municipality, 2025b).

Historically, Gorontalo society recognizes the principle "*Adati hula-bulaa to Syara', Syara' hula-bulaa to Qur'ani*" as a constitutional normative formulation that reflects the harmonious integration between customary law and Islam within the local Constitutional Law system (Fadani et al., 2025; Sartori & Shahr, 2012; Z. Z. Suleman et al., 2025). This principle demonstrates that Gorontalo customary law does not operate separately, but is integrated within a pluralistic normative order, in line with legal pluralism theory that recognizes the co-existence of various legal systems within one political community (Djawas et al., 2024). However, what distinguishes Gorontalo customary law from other forms of legal pluralism in Indonesia is the intensity of custom-Islam integration that is not only normative-symbolic, but also operational and institutional in constitutional practice. In the context of an absolute Muslim majority society, the Adat-Sharia-Quran principle does not stop as a cultural adage, but functions as a basic constitutional norm that structures public decision-making, dispute resolution, and the regulation of social life rites such as marriage, death, and inheritance. This intensity of integration is made possible by the absence of other majority value systems that must be negotiated structurally, unlike the Muslim minority context in Manado, where the operationalization of adat-Islamic law must negotiate with Protestant majority values within a different local constitutional framework.

In the context of Gorontalo adat-Islamic Constitutional Law, the term sharia refers to the entirety of Islamic law principles sourced from the Quran, hadith, ijma, and qiyas, which have been codified into operational norms and legal rules in social governance and local constitutional affairs. Meanwhile, Quranic refers specifically to normative values and transcendental ethics sourced directly from the Quran as divine revelation. Thus, sharia is interpretive and applicative, while Quranic occupies an essential position as the highest source of values. In Gorontalo customary Constitutional Law practice, the integration among custom, sharia, and Quranic values reflects a layered normative system that emphasizes that customary law cannot be separated from religious authority and Islamic spiritual ethics (Alsharif, 2021; Kamali, 2022). This relationship demonstrates that custom-based local constitutional systems also uphold a living and contextual Islamic system (Ali S., 2023; Auda, 2021). Conceptually, a constitutional normative hierarchy is formed, where custom becomes the first operational layer based on sharia as the second normative layer, and ultimately based on Quranic values as the highest source of legitimacy. This structure produces a theological-constitutional legal system, where the highest legitimacy is sourced from divine revelation, while its application is mediated by sharia and custom to remain contextual. This



normative hierarchy model becomes crucial in comparative analysis with the minority context, where the same value structure is maintained, but with different constitutional operationalization mechanisms.

The continuity of Gorontalo adat-Islamic Constitutional Law as local constitution can be traced through institutional practices such as *Buwatulo Taulongo*, namely a deliberative forum involving customary leaders, religious scholars, and community leaders in public decision-making and collective policy determination. *Buwatulo Taulongo* functions similarly to a traditional legislative institution, bridging the deliberation and consensus process as an expression of customary community sovereignty that is participatory and collegial (Radjak et al., 2024). In the Muslim majority society context in Gorontalo, *Buwatulo Taulongo* possesses dual legitimacy, namely formal-institutional legitimacy recognized by the local government as part of local constitutional governance, as well as strong sociological legitimacy because it is rooted in the values, history, and collective experience of the community. This combination of formal and social legitimacy makes *Buwatulo Taulongo* an effective and influential local constitutional institution in regulating community life. However, the constitutional issue relevant for further analysis is how the existence and institutional function of *Buwatulo Taulongo* undergoes transformation, or even ceases to exist, when the Gorontalo community is in a minority context such as in Manado. This question includes whether such dual legitimacy can be maintained, or whether there is a shift from formal-institutional legitimacy toward purely sociological legitimacy within the living constitution framework.

Research findings based on in-depth interviews with Gorontalo customary leader, Subroto K. Duhe on August 12, 2025, show that Gorontalo customary law remains living and actively functioning as part of adat-Islamic Constitutional Law through the *Buwatulo Taulongo* institution. This institution serves as a deliberative forum involving customary leaders and religious figures in public decision-making, particularly regarding community social and religious issues. Subroto emphasized that "customary norms are not decided solely based on local tradition, but are always examined through sharia principles and referred to Quranic values, such as justice (*'adl*), public welfare (*maslahah*), and trust (*amanah*)." This statement reflects a deliberative constitutional process that integrates custom and Islamic law as sources of constitutional normativity. Furthermore, Subroto stated that "*Buwatulo Taulongo* is not merely a customary institution, but also a local constitutional mechanism that ensures every important community decision is made through deliberation with reference to customary values and Islamic sharia. We cannot decide something that contradicts sharia, because if it contradicts, the decision will not be accepted by the community." This statement confirms the position of *Buwatulo Taulongo* as a local constitutional institution that has normative and sociological legitimacy in the Gorontalo constitutional system. To analyze these dynamics, a critical hermeneutic approach is used to interpret customary law as a living normative text that is collectively interpreted within power relations and values. Additionally, the *maqasid al-shari'ah* framework is used to assess the conformity of customary norms with sharia objectives, including *hifz al-din*, *hifz al-nafs*, *hifz al-'aql*, *hifz al-nasl*, and *hifz al-mal* (Kamali, 2021). Analysis results show that Gorontalo customary law is not only normative, but also transformative, because it is capable of internalizing Islamic values into contextual and adaptive constitutional practice (Djawas et al., 2024; Petoft et al., 2024). This condition demonstrates strong

synergy among locality, spirituality, and social justice in the Muslim majority society context, without structural obstacles from other majority value systems that need to be negotiated.

The constitutional function of Gorontalo customary law from a Constitutional Law perspective is not only normative, but also performative, as it regulates social relations, authority structures, and accountability mechanisms within the customary community. Gorontalo's social structure that recognizes *Tonggeyito* (customary holders), *wali-wali* (religious figures), and *ta tobu'ati* (village elders) demonstrates institutional role division in maintaining the continuity of customary law as living constitution. As proposed by Subhan et al. (2024), the integration of customary law and sharia in regions like Jambi affirms the role of local actors in ensuring the continuity of legal values that are adaptive to social dynamics. In the Gorontalo context, these three figures form a local constitutional trias that functions similarly to the checks and balances mechanism in modern constitutional systems. *Tonggeyito* serves as the holder of customary authority and executor of community collective decisions, *wali-wali* acts as the guardian of religious authority and interpreter of Islamic sharia, while *ta tobu'ati* represents collective wisdom and the community's historical memory. The three work synergistically in the *Buwatulo Taulongo* forum to ensure that every public decision is not only valid according to custom, but also conforms to sharia principles and obtains the community's social legitimacy. In the dominant Muslim majority society context, this constitutional trias configuration can operate optimally without structural obstacles from other majority value systems. Conversely, in the Muslim minority context, the roles and authority of these three figures potentially undergo transformation or marginalization due to limited formal recognition within the local constitutional structure dominated by non-Muslim majorities.

The application of Gorontalo customary law in local Constitutional Law practice and social justice not infrequently becomes the primary reference for dispute resolution that is more accepted by the community compared to formal state legal procedures. From a constitutional perspective, this condition demonstrates that customary law functions not only as a social norm, but as an alternative constitutional mechanism that has strong legitimacy at the community level. One concrete example can be seen in the case of communal land ownership conflict between extended families in West Limboto District. Rather than bringing the matter to the district court as the state's formal forum, the parties agreed to resolve it through the *Buwatulo Taulongo* customary institution. The dispute resolution process was conducted through a deliberative mechanism involving *Tonggeyito* (customary holders), local religious scholars, and community representatives as representation of customary community sovereignty. The deliberation began with prayer recitation and was based on references to Islamic sharia principles, such as justice (*'adl*), public welfare (*maslahah*), and the interpretation of communal land as ancestral trust that must be collectively preserved. The resulting decision was not only accepted by the parties, but was also recorded in official village documents as a mutual agreement, thereby obtaining administrative recognition in local governance. As conveyed by Subroto K. Duhe, "in the communal land case in West Limboto, both families initially wanted to take the case to court, but after we mediated through *Buwatulo Taulongo* and explained that communal land is an ancestral trust that must be jointly preserved according to Islamic principles, they finally agreed to resolve it peacefully with fair distribution. This decision not only resolved the dispute, but also strengthened family solidarity." This statement confirms that customary law legitimacy in the Gorontalo context is sourced from normative consensus and collective consciousness, not from state authority coercion. This phenomenon aligns with Bedner's (2024) findings in Aceh, which show that legal pluralism enables communities to engage in forum shopping based on social effectiveness and substantive legitimacy, not merely

formal legality. In the context of Gorontalo adat-Islamic Constitutional Law, the choice of customary forum does not face structural obstacles because adat-Islamic law is a widely recognized majority value system. This situation is fundamentally different from the Muslim minority context in Manado, where forum shopping practice tends to be more limited because adat-Islamic law must negotiate with the Protestant majority legal system and state law that do not always recognize the authority of Muslim customary institutions.

Thus, Gorontalo customary law can be understood as a local Constitutional Law system that has two main constitutional characteristics. First, constitutional autopoiesis, namely the capacity of the customary legal system to reproduce and renew its norms, values, and authority structures internally through deliberation mechanisms, customary institution decisions, intergenerational value transmission, and application of social sanctions that ensure compliance. This autopoietic capacity is evident in Gorontalo customary law's ability to adjust its rules to changes in constitutional contexts such as local leadership dynamics, economic transformation, and interaction with state law without losing the normative identity of Adat-Sharia-Quran as its constitutional foundation. Second, Gorontalo customary law possesses constitutional sociological legitimacy, namely validity sourced from collective community recognition and acceptance because the law is born from the values, history, and shared experiences of the community. This legitimacy is strengthened through ritual practices, inclusive dispute resolution mechanisms, and the involvement of customary leaders, religious scholars, and the community in public decision-making processes. Thus, customary law norms are not only formally obeyed, but are also felt to be just and meaningful in the community's constitutional consciousness. These two characteristics explain the resilience and relevance of Gorontalo customary law as living constitution in local constitutional governance, while opening space for constructive dialogue with the national legal system without negating local cultural roots and religiosity. In the Muslim majority society context, this autopoiesis and sociological legitimacy can operate optimally because they are supported by demographic and cultural homogeneity. However, the crucial constitutional issue to be analyzed next is whether these two characteristics can still be maintained in the minority context, when the community does not have demographic and cultural dominance, and must operate without the support of formal-institutional legitimacy from local state authorities.

However, the continuity of customary law as a local Constitutional Law system also faces serious challenges. Modernization and the penetration of positivist-oriented state law often narrow the operational space of customary law in the national constitutional structure. The state tends to implement legal-formal and administrative standards in recognizing customary communities and their rights, including rights to communal land and the existence of customary institutions (Fahmi et al., 2024). When the existence of customary law is required through administrative proof, the living law principle potentially becomes reduced by the logic of recognition bureaucratization. In the Gorontalo context, although customary law has strong sociological legitimacy, formal recognition from the state remains crucial so that customary decisions have force and binding power in the national legal system. This challenge becomes more complex in minority contexts such as in Manado, where formal recognition from the city government dominated by Protestant majorities is relatively more difficult to obtain. Consequently, the adat-Islamic law of Muslim communities often must operate only with sociological legitimacy, without the support of formal-institutional legitimacy from local constitutional authorities.

Furthermore, from a Constitutional Law perspective, customary law as a local constitutional system is not always progressive. The study by Braak & Ibrahim (2025) in Libya shows that customary law can be used to maintain discriminatory practices, such as restrictions on women's inheritance rights. This emphasizes that customary law is not a neutral entity, but is influenced by power relations and underlying values. In the Gorontalo context, the potential for regressivity is also seen in the practice of customary land inheritance (*tulude*) in coastal areas such as Batudaa Pantai District, where women are often excluded from inheritance rights based on lineage customs (*to hulontalo*). This practice contradicts Islamic justice principles and Quranic provisions regarding women's inheritance rights (Q.S. An-Nisa: 11). According to Subroto K. Duhe, correction of customs that contradict sharia continues to be pursued through gradual socialization, because local constitutional change cannot be imposed abruptly. Therefore, Gorontalo customary law as living constitution needs to be continuously critiqued and reformulated through critical hermeneutics and *maqasid al-shari'ah* to align with contemporary social justice and human rights.

Within the Constitutional Law framework based on living constitution, Gorontalo customary law demonstrates adaptive capacity in responding to changing times and contemporary constitutional issues, such as environmental protection, women's empowerment, and local democratization. Customary norms not only regulate the private sphere, but also function as local public policy instruments oriented toward sustainability and common interests. Gorontalo's customary mechanisms, for instance, recognize prohibitions on environmental destruction based on the value of *lohulipu* (harmony with nature), as well as the principle of *buyula* (mutual cooperation) as the basis for solidarity and collective work distribution in resource management (Utama et al., 2024). In an interview with AD Khaly, it was emphasized that "*Buwatulo Taulongo* does not only handle disputes or marriages, but also decides environmental policies. For example, when there was a plan to open forest land for oil palm plantations, we deliberated and decided that land clearing must consider environmental sustainability according to the lohulipu principle. We also referred to Quranic verses about the prohibition of causing destruction on earth (Q.S. Al-Baqarah: 205). This decision was then conveyed to the local government as community input." This practice shows that Gorontalo customary law functions as a participatory constitutional mechanism that bridges local values, Islamic principles, and local government governance. Thus, the transformational approach to Gorontalo customary law does not reject modernity, but integrates it through inclusive and deliberative reinterpretation of local values. This aligns with Naumkina et al. (2025) view that the educational function of customary law plays an important role in instilling social responsibility and building a strong civil society within a democratic constitutional framework.

Therefore, the existence of Gorontalo customary law as a local Constitutional Law system is not only historically relevant, but also strategic in building local governance based on cultural and Islamic values. Within Indonesia's pluralistic and multicultural constitutional framework, Gorontalo customary law functions as an alternative normative basis that enriches national constitutional discourse. The conception of customary law as local constitution also expands the meaning of constitution itself, not limited to written legal documents, but encompassing living social agreements that regulate collective life based on the values, traditions, and historical experiences of society. In line with Zainuddin et al. (2024) view, legal pluralism enables communities to choose and adapt norms most suited to their needs and values. In this context, Gorontalo customary law does not merely complement state law, but exists as a legal system that is normatively autonomous and culturally sovereign. By positioning customary law as living

constitution, Gorontalo offers a constitutional model that is culturally rooted, oriented toward religious values, and adaptive to social dynamics. This model has the potential to inspire the development of a more inclusive national constitutional framework, where legal diversity is viewed as institutional wealth, not an obstacle.

From a global perspective, customary law practices such as in Gorontalo are part of the discourse on customary Constitutional Law and indigenous peoples' rights advocated through the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). Recognition of customary law as a legitimate and living normative system reflects indigenous peoples' struggle for identity, normative sovereignty, and social justice in global constitutional governance. Gorontalo customary law is not merely a historical legacy, but a local constitutional system that actively regulates social structure, power distribution, justice mechanisms, and human-nature relations. Therefore, recognition and strengthening of customary law need to be positioned as an integral part of national and international Constitutional Law development that is just, inclusive, and sustainable.

The continuity of Gorontalo customary law as living constitution as described above demonstrates how adat-Islamic Constitutional Law can function optimally in the context of a society with very dominant Muslim demographic and cultural majority. With 98.1% of the population being Muslim, Gorontalo Province provides a constitutional sociological and political space that enables customary law based on Islamic values to operate assertively and formally through institutions such as *Bumatulo Taulongo*. The existence of dual legitimacy—namely customary legitimacy and religious legitimacy—strengthens the position of customary law as a living local constitution, without facing structural or cultural resistance from other majority value systems. In this constitutional configuration, the principle "*Adati bula-bulaa to Syara', Syara' bula-bulaa to Qur'ani*" functions not only as a symbolic norm, but as an operational constitutional norm manifested in institutional practice, dispute resolution mechanisms, and daily community governance. This absolute majority condition creates what can be called a permissive constitutional space, where adat-Islamic law develops independently and even receives formal support from local government authorities.

However, the crucial constitutional issue in the study of adat-Islamic Constitutional Law is how the same Gorontalo customary legal system adapts when the community is in a Muslim minority position in regions with non-Muslim majorities. This phenomenon is evident in the Gorontalo community in Manado City, where the Muslim population only reaches 31.9% of the total city population dominated by Protestant adherents at 64.1% (BPS-Statistics Manado Municipality, 2025b). Although there are Muslim enclaves in several sub-districts, such as Ternate Tanjung with 86.7% Muslim population, the structural minority position at the city level creates a different constitutional configuration in customary law application. In this context, several fundamental questions arise: can the Adat-Sharia-Quran principle still be maintained as a constitutional norm? How does institutional transformation such as *Bumatulo Taulongo* occur when it does not receive formal recognition from city government authorities? Can dual formal and sociological legitimacy still be maintained, or does it shift to purely sociological legitimacy? Additionally, what constitutional strategies are developed by the community to maintain their living constitution amid a majority value system that differs religiously and culturally? These questions become the focus

of subsequent discussion that explores Gorontalo customary law practice in the context of Muslim minority enclaves in Manado. This analysis integrates the *Fiqh al-Aqalliyat* (Islamic Minority Jurisprudence) framework to understand constitutional adaptation strategies under structural minority conditions. Through systematic comparison between the majority context in Gorontalo and the minority context in Manado, this research aims to produce a theoretical model of living constitution that is responsive to demographic configuration, while filling the literature gap regarding Muslim minorities in Eastern Indonesia.

### **Formation of Customary Constitutional Law Based on Islamic Values in the Muslim Majority Context**

The discussion regarding the role of Islamic values in the formation of Gorontalo customary law in this section focuses on the context of adat-Islamic Constitutional Law in Muslim majority society, where the Gorontalo community occupies a dominant demographic and cultural position. Based on data from the Regional Office of SatuData of the Ministry of Religious Affairs of Gorontalo Province for 2025, Muslims in Gorontalo Province reach 98.1% of the total population (1,198,029 of 1,221,297 people), making Gorontalo one of the provinces with the highest level of religious homogeneity in Indonesia. This demographic configuration forms a local constitutional space that enables Islamic values to function not only as moral legitimacy, but also as a structural foundation of constitutional normativity in the formation and operationalization of customary law. From a Constitutional Law perspective, this absolute majority condition enables Islamic values such as *'adl* (justice), *maslahah* (public welfare), *shura* (deliberation), and *amanah* (responsibility) to be articulated fully and assertively through formal and institutionalized customary institutions, without facing significant cultural or political obstacles. Unlike the minority context, where Islamic values must be negotiated with other majority value systems, in the Gorontalo context these values function as operational constitutional norms that organize decision-making processes, dispute resolution, and community governance. This condition enables the integration among custom, sharia, and Quranic values to proceed organically and institutionally, thereby forming a local Constitutional Law system based on Islamic values and obtaining broad legitimacy from society (Djawas et al., 2024; Subhan et al., 2024). This absolute majority context creates what can be called a full articulation space, namely a constitutional space where Islamic values can be expressed without compromise with other majority value systems—a condition fundamentally different from minority contexts such as in Manado, which will be discussed in the subsequent section.

Islamic values in Gorontalo society function not only as a source of religious teachings, but have been deeply internalized in the social structure and customary Constitutional Law system, thereby forming a distinctive local constitutional framework. The integrative principle "*Adati hula-hulaa to Syara', Syara' hula-hulaa to Qur'ani*" does not stop as a symbolic adage, but operates as a constitutional normative system that directs social interaction, establishes legitimacy of power, and forms the structure of customary and religious authority in the Gorontalo community. In local constitutional practice, every decision-making process—whether related to land disputes, marriage, or the inauguration of customary leaders—always involves consideration of Islamic sharia that refers to Quranic values such as *'adl* (justice), *maslahah* (public benefit), and *hikmah* (wisdom). This configuration produces a legal order that is not only locally valid, but also has strong spiritual and moral legitimacy (Mulia et al., 2024). This integration reflects the actual practice of living constitution from a Constitutional Law perspective, where the constitution is not merely understood as the state's written legal text, but as living norms that work through social practice,

customary rites, and the community's collective consciousness (Subhan et al., 2024). Thus, Gorontalo customary law functions as a local constitutional model based on Islamic values that is participatory and oriented toward social justice. In the Muslim majority society context, this integration of Islamic values is operational-institutional, where customary institutions such as *Buwatulo Taulongo* explicitly use Islamic values as the basis of legitimacy for every public decision. This condition is fundamentally different from the minority context, where articulation of Islamic values tends to be informal and does not always receive formal recognition from local constitutional authorities.

From the Constitutional Law perspective based on living constitution, Gorontalo customary law is not stagnant, but demonstrates dynamic adaptive capacity toward community needs, while maintaining Islamic values as the normative foundation. This research shows that the operationalization of Gorontalo customary law cannot be separated from local constitutional institutions such as *Buwatulo Taulongo*, which involves customary leaders and religious figures in formulating and ratifying community collective decisions. In this mechanism, Islamic values are present not as external norms, but as foundational values embedded in the social identity and legal system of Gorontalo society (Djawas et al., 2024). In the dominant Muslim majority society context, this internal constitutional correction mechanism can operate effectively because it does not face resistance from other majority value systems. This condition is fundamentally different from the minority context, where the internal correction process of adat-Islamic law potentially faces structural and cultural obstacles from different majority value systems.

Islamic values such as *'adl* (justice), *shura* (deliberation), *amanah*, and social responsibility function as normative Constitutional Law principles that structure the public decision-making process in Gorontalo's customary space. Participatory observation results show that deliberation practices in customary communities always begin with prayer and religious references, and are justified through Quranic verses and hadith. This practice is reflected in customary fatwas, both written and oral, which function as local constitutional decision products. This demonstrates that Gorontalo customary law operates within an Islamic logic framework that provides moral and spiritual legitimacy to the community's constitutional decisions (Subhan et al., 2024). As conveyed by AD Khaly, "every time we hold *Buwatulo Taulongo* meetings, we always begin with the recitation of *Al-Fatihah* and prayers so that Allah provides guidance in making just decisions. In the discussion, we always refer to sharia principles such as justice, public welfare, and trust. If there is a decision not aligned with these principles, then that decision will be rejected." This statement confirms that Islamic values do not stop at the symbolic level, but are operationalized institutionally in every stage of decision-making, from forum opening (prayer), deliberation process (normative argumentation based on Quran and hadith), to decision legitimacy (customary fatwa ratification by religious scholars). In the Muslim majority society context, articulation of Islamic values as the basis of local constitutional norms can be done explicitly and formally, without being perceived as exclusivism or discrimination. This is possible because the Islamic value system is the dominant value widely recognized and becomes the common foundation in Gorontalo community constitutional governance.

Epistemologically, the relationship between customary law and Islamic values in Gorontalo operates in a transintegrative Constitutional Law paradigm, not merely syncretic. This means that

the interaction is not a patching between legal systems, but a process of mutually forming and complementing within a unified constitutional normativity framework. In in-depth interviews with customary leaders and local religious scholars, it was found that Islamic values function as evaluative constitutional parameters that can correct, even nullify, customary norms deemed contrary to sharia principles. This process does not create conflict, because in the constitutional consciousness of Gorontalo society, sharia is placed as the normative authority above custom, with the Quran as the highest source of legitimacy (Mulia et al., 2024). As explained by AD Khaly, "there was an old customary practice in some villages regarding inheritance distribution that ignored women's rights. In the *Bumutulo Taulongo* forum, we made corrections by referring to Islamic inheritance law in Q.S. An-Nisa: 11. Although there was initially resistance, with explanation based on Quranic verses and hadith, the community finally accepted that customs contrary to sharia must be corrected." This example shows that the transintegrative paradigm in adat-Islamic Constitutional Law does not mean all customary norms are accepted without criticism, but through a process of selection, evaluation, and normative correction. This correction process takes place deliberatively and participatively in the *Bumutulo Taulongo* forum, involving customary leaders, religious scholars, and the community, so that the resulting decisions have dual constitutional legitimacy—custom and sharia. In the Muslim majority society context, this internal correction mechanism can be implemented openly and transparently without concerns about identity resistance from non-Muslim majority groups, making it effective as living constitution practice based on Islamic values.

On the other hand, Islamic values also function as normative selection instruments in Gorontalo customary Constitutional Law. Customary norms related to inheritance, marriage, and social sanctions are not applied rigidly, but undergo a recontextualization process to align with Islamic justice principles. Document studies of Gorontalo customary law texts show that redactional changes and interpretation of customary norms are carried out through deliberative mechanisms involving religious figures and customary leaders, confirming the active role of Islamic values in reorganizing customary law to remain constitutionally relevant and just. As explained by Subroto K. Duhe, "in handling inheritance cases, we do not merely follow standard customary rules, but consider Islamic justice principles and family welfare. If customary inheritance distribution is deemed unjust, especially for women or orphans, we refer to Islamic inheritance law which is clearer and fairer, and consider the economic conditions of the heirs." This statement shows that Gorontalo customary law operates as an adaptive constitutional system, where substantive justice becomes the main measure in community public decision-making. In the Muslim majority society context, this constitutional flexibility is made possible by the social consensus that Islamic values are the highest criteria for justice legitimacy. The absence of other majority value systems that must be negotiated enables adat-Islamic law to function responsively and correctively. Conversely, in the Muslim minority context, this flexibility space tends to be more limited because it must operate within the framework of different majority legal systems and values.

Within the local Constitutional Law framework, customary law practice inspired by Islamic values in Gorontalo functions as a local constitution that regulates community governance normatively and operationally. This aligns with the living constitution concept which, as proposed by Strauss (2010), views the constitution not merely as the state's formal legal text, but as a normative order that lives in institutional practice and community collective consciousness. In the Gorontalo context, customary law becomes the main arena for articulation of Islamic values in the



form of social policies, authority distribution, and dispute resolution mechanisms that have constitutional binding force. For example, customary decisions in communal land cases or family conflicts are always referred to the principles of *maslahah* and *tashwib* as sharia rules that guide the achievement of substantive justice. AD Khaly explained that "in communal land dispute cases, we do not only look at who has customary ownership evidence, but also consider the *maslahah* principle for all parties. If rigid distribution actually creates family division, we seek more flexible solutions while maintaining everyone's rights. We also apply the *tashwib* principle, namely decisions must bring social improvement." This practice shows that Islamic values do not stop at the normative-abstract level, but are operationalized as constitutional principles in community public decision-making. In the Muslim majority society context, such operationalization can be done explicitly and systematically because it is supported by formal institutions such as *Buwatulo Taulongo*, which has local constitutional authority to apply sharia principles in community governance.

The presence of Islamic values in Gorontalo customary law also functions as a source of constitutional legitimacy for customary authority within the local Constitutional Law framework. Observation of customary ceremonies such as *molontalo* (inauguration ceremony for customary leaders) shows that the oath of office is performed by invoking Allah's name and witnessed by religious scholars, indicating that customary authority is not only sourced from social consensus, but also from spiritual legitimacy. This dimension presents a sacred character in local constitutional governance, which strengthens the authority of the customary system as a public institution. As explained by Subroto K. Duhe, "when a *Tonggeyito* is inaugurated, he must swear before religious scholars and the community by invoking Allah's name that he will carry out his duties justly, trustworthily, and in accordance with sharia principles. This oath is not merely a formality, but is spiritually binding. Violation of the oath is accountable not only to the community, but also to Allah in the hereafter." This statement shows that the customary oath of office functions as a non-formal constitutional accountability mechanism based on Islamic values. This sacred dimension creates strong moral control over customary authority holders, so that power is exercised ethically and not abused. In the Muslim majority society context, this spiritual accountability mechanism works effectively because it is supported by strong collective consciousness regarding social and transcendental accountability. Conversely, in the Muslim minority context, this sacred legitimacy tends to be limited to the internal community sphere and does not always receive formal recognition from local constitutional authorities dominated by non-Muslim majorities.

However, Islamic values also function as an internal constitutional critique instrument toward stagnant or deviant customary law practices within the framework of Gorontalo adat-Islamic Constitutional Law. A number of interviews show that religious scholars and Islamic academics in Gorontalo actively reject customary practices that are discriminatory toward women or not transparent in inheritance distribution. In this context, Islamic values are used as normative evaluative standards to ensure that customary law remains aligned with justice principles and *maqasid al-shari'ah*. As emphasized by AD Khaly, "as a religious scholar, I have a responsibility to ensure that customary practices do not contradict Islam. If there are discriminatory or unjust practices, I must provide correction based on Quranic verses and hadith. In some cases, daughters do not receive proper inheritance rights. I explained that Islam explicitly grants inheritance rights to women, and customs that eliminate such rights are customs that deviate from sharia.

*Alhamdulillah*, the community accepts this correction because they understand that custom must be based on sharia, not vice versa." This statement shows that religious scholars serve as constitutional value guardians in Gorontalo's customary law system, ensuring the continuity of substantive justice principles. This criticism and correction mechanism confirms that Gorontalo customary law has the character of a self-correcting constitutional order, where customary norms are constantly tested and renewed based on Islamic values. In the Muslim majority society context, this constitutional correction mechanism can operate effectively because religious scholars' authority is socially recognized and does not face resistance from other majority value systems.

The relevance of Islamic values in justifying Gorontalo customary law is also reflected in the framework of state constitutional recognition of customary community existence. Article 18B of the 1945 Constitution and various derivative regulations, including Law No. 6 of 2014 on Villages, provide Constitutional Law foundations for customary communities to implement their customary law as long as it does not contradict human rights and rule of law principles. In this context, Islamic values embedded in Gorontalo customary law function as a bridge of constitutional legitimacy between the customary law system and state law (Fahmi et al., 2024). Islamic values such as *'adl* (justice), *maslahah* (public welfare), and respect for human rights have normative conformity with Indonesian constitutional principles, including Pancasila and the 1945 Constitution. Therefore, Gorontalo customary law based on Islamic values is more easily accepted and integrated into the national legal system. As explained by Subroto K. Duhe, "when we submitted formal recognition for the *Buwatulo Taulongo* institution to the local government, we emphasized that this institution does not contradict national law. In fact, our decisions are always based on principles of justice, deliberation, and public welfare that align with Pancasila and the 1945 Constitution." This recognition encouraged the local government to recognize and support *Buwatulo Taulongo* as a constitutionally legitimate customary mediation institution. This formal state recognition becomes important so that customary decisions have legal binding force in the national legal system. In the Gorontalo Muslim majority context, such recognition is relatively easy to obtain because adat-Islamic law is a dominant value system that does not contradict state constitutional principles. However, this condition differs in the minority context, where formal recognition from local governments dominated by non-Muslim majorities tends to be more complex and challenging.

Research findings show that Islamic values in Gorontalo customary law do not stop at the symbolic or declarative level, but are actually implemented in social practice and local Constitutional Law institutions. Interviews with AD Khaly, a customary leader and member of the *Buwatulo Taulongo* forum in Gorontalo Regency, confirm that in every customary decision-making process, sharia considerations and direct references to Quranic verses always become binding normative references. This demonstrates that Gorontalo customary law functions as a local constitution that combines customary norms and Islamic values in community governance. One concrete example conveyed by AD Khaly was in handling a water resource management conflict in Tunggulo Village. In that conflict, two community groups had different interests: one group wanted to use irrigation water for oil palm plantations, while the other group wanted to maintain it for rice fields. According to AD Khaly, "in the *Buwatulo Taulongo* forum, we did not only consider the economic interests of each group, but also environmental sustainability principles. We referred to Q.S. Al-Baqarah: 205 about the prohibition of causing destruction on earth, as well as the *maslahah* principle that decisions must bring benefits to all parties." The final decision established fair water distribution considering environmental sustainability and the community's long-term interests. Analyzed documents include minutes of *Buwatulo Taulongo* decision meetings from 2022,

containing deliberation records among customary leaders, local religious scholars, and village officials, as well as references to religious scholars' fatwas regarding just and sustainable natural resource management. This finding confirms that Gorontalo's local constitutional system based on Islamic values is substantive and contextual, not theocratic or legal-formalistic. Religious values are not used as state ideological control instruments, but as sources of public ethics that guide the collective administration of social and environmental justice. Thus, Gorontalo customary law represents a living constitution model that is inclusive, participatory, and deeply rooted in community spirituality. In the Muslim majority society context, integration of Islamic values in community decision-making can be done explicitly and systematically because of collective consciousness that Islamic values are legitimate and widely recognized sources of public ethics in local constitutional structures.

The integration model of Islamic values in Gorontalo customary law as described above demonstrates how adat-Islamic Constitutional Law can function optimally in Muslim majority society contexts. In demographic conditions where 98.1% of the population is Muslim, Islamic values can be articulated fully, assertively, and formally as operational constitutional norms, without facing cultural or political obstacles from other majority value systems. The existence of dual legitimacy—namely customary legitimacy and religious legitimacy—strengthens the position of Islamic values as a structural foundation in Gorontalo's local constitutional governance. Customary institutions such as *Buwatulo Taulongo* explicitly use sharia principles, such as '*adl, maslahah*, shura, and *amanah*, as the basis of legitimacy in every community public decision. The internal correction process toward customary norms not aligned with Islamic values can be carried out openly and transparently because of collective constitutional consensus that sharia has supremacy over custom, with the Quran as the highest source of values. This self-correction mechanism ensures that Gorontalo customary law remains relevant, just, and adaptive as living constitution without losing its Islamic normative identity.

However, the crucial constitutional issue is how Islamic values as constitutional norms are applied and negotiated when the Gorontalo community is in a structural minority position in a Protestant majority city like Manado. The questions that arise are not only normative, but also institutional: whether Islamic values such as '*adl, maslahah*, and shura undergo transformation in the minority context, and to what extent sharia principles can be articulated assertively in local constitutional structures dominated by other majority value systems. Additionally, how is the internal correction mechanism toward customary norms not aligned with Islam implemented when there is no formal institution like *Buwatulo Taulongo* recognized by local state authorities. This question also includes the transformation of religious scholars' roles as guardians of Islamic constitutional values in contexts where Muslim religious authority does not have formal recognition in city governance. These issues will be analyzed in subsequent discussions through study of the Muslim enclave context in Manado, integrating the *Fiqh al-Aqalliyat* framework to understand adaptation strategies of adat-Islamic Constitutional Law under minority conditions, while enriching the study of legal pluralism and Islamic constitutionalism in Indonesia.

## The Ternate Tanjung Muslim Enclave in Constitutional Law Perspective: Multi-Level Phenomenon and Active Tolerance Model in the Context of Plurality

If previously discussed was how Gorontalo adat-Islamic Constitutional Law operates assertively in the context of absolute Muslim majority society (98.1% of population), this section explores different constitutional dynamics when the Gorontalo community is in a structural minority position in Manado City. Based on BPS Manado City data (2025), the Muslim population in Manado only reaches 31.9% (143,207 people), while the Protestant majority comprises 64.1% (287,941 people). However, an interesting constitutional phenomenon emerges in Ternate Tanjung Sub-District, Singkil District, where the Gorontalo community forms an enclave with a local Muslim majority of 86.7% (2,912 of 3,357 people). This multi-level majority-minority configuration—majority at the sub-district level and minority at the city level—creates unique dynamics in the application of customary law and religious practices within the framework of local Constitutional Law. This condition differs significantly from the Gorontalo Province context and challenges the majority-minority dichotomy commonly used in adat-Islamic law literature. This multi-level minority phenomenon remains relatively rarely studied in constitutional studies, yet is important for understanding how customary law systems and Islamic values adapt within layered administrative and political structures (Cohen & Neal, 2012; Nordin et al., 2025b; Ramos-Sampan et al., 2025; Sahfutra et al., 2025; Sikharulidze, 2024; Srimulyani, 2021; Stiles et al., 2007; Wali, 2020).

Demographic data from Manado City reveals the constitutional complexity of the Gorontalo Muslim community's position across three different administrative levels. At the sub-district level, Ternate Tanjung has a Muslim population of 86.7% (2,912 people), Protestant 13.2% (443 people), and Catholic and Hindu each 0.03% (1 person). At the district level, Singkil still shows Muslim dominance with 57.4% (30,441 people), while Protestant reaches 41.8% (22,185 people). However, at the city level, the constitutional configuration changes significantly: Muslims only comprise 31.9% of the population, while Protestants reach 64.1%, placing the Muslim community as a structural minority in Manado City governance (BPS-Statistics Manado Municipality, 2025). This phenomenon creates what can be called a layered demographic position within the local Constitutional Law context, where community strategies in maintaining adat-Islamic legal identity must be adjusted according to different administrative levels. At the sub-district and district levels, the community can be more assertive because they have a majority base, whereas at the city level, they must adopt a more diplomatic and accommodative approach in interacting with local government authorities. This multi-level model differs fundamentally from the Gorontalo context which has absolute majority at all levels, as well as from the single minority assumption in *Fiqh al-Aqalliyat* literature which generally assumes a consistent minority position across all administrative levels (Al-Alwani, 2003; Qaradawi, 2001).

Interview results with Ramyan H., a community leader of the Gorontalo community in Ternate Tanjung Sub-District (November 17, 2025), reveal that the formation of this Muslim enclave cannot be understood as a defensive strategy within the framework of majority-minority conflict, but rather as a result of organic socio-economic and historical processes in local constitutional spatial governance. According to Ramyan, "we intermarry and inherit houses in the vicinity. Our livelihood is mostly trading. Almost none return to Gorontalo. This is not a conscious strategy to maintain identity, but because of historical and economic factors that made us gather here." This statement shows that the Ternate Tanjung enclave was formed through spatial economic clustering

mechanisms institutionalized socially through kinship networks and property inheritance, not through defensive spatial segregation as often assumed in Western Muslim minority literature (Greer, 2024; Hasan et al., 2018; Rahman, 2019). From a Constitutional Law perspective, this process reflects how local demographic configurations form the factual basis for the emergence of semi-autonomous community governance at the sub-district level. Historical factors further strengthen this position. Before regional expansion in 2000, Gorontalo and North Sulawesi were in one province, forming administrative and cultural continuity that facilitated mobility and social integration. Migration of the Gorontalo community to Manado as traders has occurred since the colonial era, creating a stable economic network subsequently institutionalized through endogamous marriage and property inheritance. This enclave model differs fundamentally from Muslim enclaves in Europe which generally emerged as responses to structural discrimination (Tabroni et al., 2025), and more represents local constitutional adaptation based on history and economics within Indonesia's plural constitutional system.

What distinguishes the Ternate Tanjung Muslim enclave from defensive enclave models is the presence of active tolerance patterns that function as social constitutional mechanisms between the Muslim community and the Protestant majority. In the interview, Ramyan described his childhood experience: "when I was young, when social conflicts occurred in areas like Poso, I saw mosques guarded by Christians during Eid al-Fitr, and conversely churches guarded by Muslims during Christmas. This relates to tolerance that is already rooted." This mutual protection practice shows that interfaith relations are not passive or merely co-existence, but active participation in maintaining public order and security across religious identities (Sandiah et al., 2024). From a local Constitutional Law perspective, this practice can be understood as a form of social constitutionalism that supports stability and community cohesion in the context of plurality. This active tolerance functions as an informal mechanism for managing public security and order, complementing the state's role at the local level. Normatively, this practice aligns with the *Fiqh al-Aqalliyat* framework, particularly the principle of *mumwatanah* (Islamic citizenship), which emphasizes the obligation of Muslim minorities to act as good citizens and contribute to common welfare, including toward non-Muslim citizens living peacefully side by side (Al-Alwani, 2003). The *mumwatanah* principle is based on Q.S. Al-Mumtahanah: 8, which affirms the necessity of doing good and acting justly toward those who do not oppose Islam. In the Ternate Tanjung context, this principle does not stop as a theological norm, but is articulated as daily constitutional practice, showing that *Fiqh al-Aqalliyat* operates as living constitutional ethics for Muslim minority communities.

Another concrete example of active tolerance within the local Constitutional Law framework is the acceptance of adhan practice by Protestant neighbors as part of the city's public space. Ramyan explained that "from discussions with Christian friends in Ternate Tanjung regarding the use of mosque speakers, they conveyed that the adhan actually becomes a natural alarm signaling time and they are already accustomed to such conditions." This phenomenon shows that adhan is not perceived as noise pollution, but rather as shared public sound accepted as a legitimate element in multicultural urban life. From a constitutional perspective, this acceptance reflects public space management based on social consensus, where minority religious practices are accommodated without disturbing the rights of other groups. This condition is made possible by several factors: first, historical ties between Gorontalo and North Sulawesi that form high social capital; second,

the absence of major religious conflicts in Manado that could trigger collective trauma; and third, implementation of the principle of 'adam al-darar (not harming and not being harmed) in Muslim religious practices. This principle encourages adjustment of adhan volume to still respect the comfort of non-Muslim residents. Normatively, 'adam al-darar is a fundamental principle in *Fiqh al-Aqalliyat* that regulates Muslim minority relations with non-Muslim majorities (Qaradawi, 2001). Unlike the conflicts over mosque speaker use in Tanjung Balai (2016) and Kendal (2018) (Daulay & Khuluq, 2024; Henley, 2025), the Ternate Tanjung case shows that application of minority *fiqh* principles in local constitutional governance can prevent conflict and create harmonious coexistence between Muslim and Christian communities.

Harmonious spatial coexistence in Ternate Tanjung Sub-District also reflects local Constitutional Law practice based on active tolerance. The fact that Al Mufied Mosque and KGMPi Kanaan Church stand side by side at a distance of about 10 meters without ever triggering conflict demonstrates inclusive public space governance. As affirmed by Ramyan, "in Ternate Tanjung Sub-District, KGMPi Kanaan Church and Al Mufied Mosque stand side by side at a distance of about 10 meters and there has never been any conflict." This practice represents the principle of ta'ayush (peaceful coexistence) aligned with the *muwatanah* concept in *Fiqh al-Aqalliyat*, namely cross-religious citizen involvement in maintaining order and social cohesion. From a constitutional perspective, this spatial coexistence functions as an informal constitutional mechanism in plurality management. Unlike various cases of minority worship house rejection in other areas (Fahmi et al., 2024), the Ternate Tanjung experience shows that the existence of Muslim religious institutions—including three mosques and a Muhammadiyah school—can be openly accepted in the city minority context as long as they contribute to general *maslahah* and are not exclusive. This confirms that active tolerance can be an important foundation for inclusive local constitutionalism.

However, the most interesting aspect of the Ternate Tanjung Muslim enclave context from a local Constitutional Law perspective is the phenomenon of simplification of religious and customary rituals that did not emerge from structural pressure by the Protestant majority, but from dynamics of economic pragmatism and cultural acculturation in urban life governance. Ramyan explained that "there are significant differences in the process of birth, circumcision, baitan, marriage, to religious rituals such as tumbilotohe and death. In Ternate Tanjung, ritual implementation is not as complex as in Gorontalo. In Manado it is carried out simply, but important elements are still inserted." This phenomenon shows that in the structural minority context, adat-Islamic law as living constitution does not demand formal replication of majority origin practices, but opens space for procedural adaptation as long as normative essence is maintained. Within the *Fiqh al-Aqalliyat* framework, this simplification aligns with the principle of *yusr* (ease), as affirmed in Q.S. Al-Baqarah: 185 that Allah desires ease and does not desire difficulty. From the local constitutional perspective, the *yusr* principle functions as an adaptive constitutional mechanism that enables minority communities to implement religious and customary norms without excessive structural burden. In the Ternate Tanjung context, ritual simplification is a rational response to socio-economic reality: high urban living costs, limited time for trading communities, and intensive interaction with Minahasa culture that encourages cultural acculturation. However, as affirmed by Ramyan, "important elements are still inserted"—the marriage contract remains the core of marriage, tahlilan remains present in death rituals, and Quranic recitation remains part of tumbilotohe. This shows that simplification is procedural, not substantial (Subhan et al., 2024). Unlike assimilation models that erode minority identity, practices

in Ternate Tanjung actually represent adaptive constitutional resilience, where the core identity of adat-Islamic law is maintained, while external expression is adjusted to the plural local governance context.

Thus, the Ternate Tanjung Muslim enclave represents a unique local Constitutional Law model for Muslim minority communities, where adat-Islamic legal identity is maintained not through defensive or segregative strategies, but through inclusive constitutional adaptation. This model is formed by a combination of organic spatial economic clustering, active and reciprocal tolerance practices with the Protestant majority, implementation of *Fiqh al-Aqalliyat* principles such as *muwatanah* and 'adam al-darar, and ritual simplification based on *yusr* that maintains normative essence without burdening the community. From a Constitutional Law perspective, this configuration shows that local constitutionalism does not always depend on formal institutions, but on value practices and social governance that are sociologically recognized. This finding enriches the literature on Muslim minorities in Indonesia which has been dominated by narratives of discrimination and marginalization, by showing that Muslim minorities can also live harmoniously and thrive in plural constitutional systems, if supported by strong social capital, positive historical ties, and active citizenship consciousness (*muwatanah*) oriented toward *maslahah* 'ammah. However, crucial constitutional issues still remain: how does institutional transformation occur in this context? Why is *Buwatulo Taulongo*, which is central in Gorontalo, not present in Ternate Tanjung, and how are constitutional functions such as dispute resolution and inheritance distribution carried out without formal customary institutions? These questions will be answered in the following discussion through analysis of deliberation mechanisms and substantive justice in the minority context.

### **Institutional Transformation in Adat-Islamic Constitutional Law: From Formal Institutions to Informal Deliberation Based on *Maslahah***

The previous discussion shows that the Gorontalo community in Ternate Tanjung lives with active tolerance toward the Protestant majority and simplifies ritual practices based on the principle of *yusr* (ease). However, further analysis reveals a more fundamental constitutional transformation, namely the absence of formal customary institutions such as *Buwatulo Taulongo* which plays a central role in the majority context in Gorontalo. From an adat-Islamic Constitutional Law perspective, this change marks a shift in local constitutional institutional structure. If in Gorontalo *Buwatulo Taulongo* functions as a formal deliberative forum with dual legitimacy of custom and state in dispute resolution and public decision-making, in Ternate Tanjung constitutional functions are carried out through informal deliberation mechanisms. Dispute resolution and inheritance distribution involve families, sub-district officials, mosque imams, and Office of Religious Affairs (KUA) officials. This transformation is not merely a transition from formal to informal, but a shift in the source of legitimacy from customary-state institutions toward legitimacy based on Islamic moral values and community recognition. This phenomenon raises important theoretical questions in living constitution studies: to what extent can living constitution survive without formal institutions, and how are adat-Islamic law values reproduced and transmitted intergenerationally without institutional structures such as *Buwatulo Taulongo*?

Interview results with Ramyan H. (November 17, 2025) confirm that in Ternate Tanjung Sub-District there is no formal customary institution such as *Buwatulo Taulongo*, either in institutional or

semi-formal form. According to Ramyan, "there is no customary institution like *Bumatulo Taulongo* in Ternate Tanjung. All deliberations are conducted internally. If mediation is needed, then sub-district officials, mosque imams, or Babinsa become mediators." This finding shows a fundamental transformation in local Constitutional Law structure, namely a shift from formal customary institutions recognized by the state (as in Gorontalo) toward ad hoc mediation mechanisms operated by informal actors in the minority context. From an adat-Islamic Constitutional Law perspective, this transformation reflects a shift in the source of constitutional legitimacy: from formal-institutional legitimacy toward sociological and normative legitimacy based on Islamic values. This change can be understood through the principle of *tadarruj* (gradualism) in *Fiqh al-Aqalliyat*, which affirms that the application of Islamic law need not be bound to one rigid institutional form, but can be gradually adjusted to the capacity and conditions of the community (Qaradawi, 2001). In the structural minority context, where the community does not have demographic or political power to maintain formal institutions requiring city government recognition, the *tadarruj* principle enables the continuity of constitutional substance of adat-Islamic law through more flexible informal mechanisms. Thus, the main measure is not the existence of formal structures, but the continuity of fundamental values such as *shura* (deliberation), *‘adl* (justice), and *maslahah* (public welfare) in dispute resolution and inheritance distribution practices (Al-Alwani, 2003).

The dispute resolution mechanism in Ternate Tanjung Sub-District operates through a tiered model that reflects deliberative local Constitutional Law governance, albeit without formal customary institutions. At the first level, resolution is conducted through family deliberation, where extended family members gather to resolve disputes internally based on the *shura* principle, as affirmed in Q.S. Ash-Shura: 38 that affairs are decided through deliberation. Ramyan explained, "if there is a conflict about land, inheritance, or family issues, it is usually resolved through internal family deliberation." If no agreement is reached, the second level involves mediation by informal public actors such as sub-district officials, mosque imams, or Babinsa, who function as neutral mediators in the local constitutional structure. This mediation is conducted by prioritizing the principles of *maslahah* (common welfare) and *sulh* (reconciliation). Subsequently, the third level involves the Office of Religious Affairs (KUA), particularly for marriage and inheritance cases requiring state administrative legitimacy. Ramyan affirmed, "none have reached court, to my knowledge." This tiered model represents adaptation of the *tahkim* (arbitration) principle in Islamic law as a non-litigation constitutional mechanism (Kamali, 2021). The fact that this system functions without *Bumatulo Taulongo* shows that in the minority context, adat-Islamic Constitutional Law functions can be carried out through networks of informal deliberation and mediation, as long as core values of justice, peace, and public welfare are maintained.

The effectiveness of the tiered dispute resolution model in Ternate Tanjung is reflected in Ramyan's statement that "none have reached court, to my knowledge." This fact shows that in the local Constitutional Law context of minority communities, sociological legitimacy—namely community recognition and acceptance—is often more determinative than formal-institutional legitimacy. The community chooses deliberation and informal mediation because these mechanisms are perceived as more inclusive, quick, economical, and aligned with living adat-Islamic law values in society, compared to formal litigation processes in courts deemed rigid, expensive, and less contextual (Bedner, 2024). From a constitutional perspective, this preference shows that the constitutional function of dispute resolution can be carried out effectively outside state judicial structures, as long as there is public trust in these mechanisms. The *sulh*



(reconciliation) principle, which affirms that "reconciliation is better" as stated in Q.S. An-Nisa: 128, becomes the main normative foundation in the mediation process. The purpose of dispute resolution is not to determine winners or losers, but to reach a fair agreement accepted by all parties and maintain community social harmony. In the Muslim minority community context, internal solidarity has strategic constitutional value. Prolonged conflict potentially weakens social cohesion and threatens the continuity of the living constitution of adat-Islamic law. Therefore, application of sulh as a non-litigation constitutional mechanism becomes an important instrument for maintaining stability and continuity of community governance.

The most significant institutional transformation in the adat-Islamic Constitutional Law context in Ternate Tanjung is evident in the inheritance distribution mechanism. Unlike the Gorontalo majority context which still recognizes relatively rigid customary rules, the Gorontalo community in Ternate Tanjung adopts family deliberation as the main constitutional mechanism, oriented toward substantive justice. An interview with Abdul Muis, a religious leader of the Gorontalo community in Manado (November 17, 2025), revealed that "in inheritance distribution, we do not strictly follow Gorontalo customary rules. We prioritize family deliberation. What is important is fairness, that no one feels wronged." Ramyan affirmed the same that inheritance distribution is conducted through internal deliberation, and if disputes occur they involve sub-district officials, KUA, or religious figures. From a local Constitutional Law perspective, this practice shows a shift from compliance with formal norms toward legitimacy based on consensus and community acceptance. This model reflects the application of *maslahah mursalah* in *Fiqh al-Aqalliyat*, where legal decisions are determined by contextual public welfare as long as they do not contradict fundamental Islamic principles (Qaradawi, 2001). Thus, the main measure is not formal customary or classical *fiqh* inheritance procedures, but the fulfillment of the '*adl* (justice) principle and avoidance of *zulm* (oppression), so that the constitutional function of adat-Islamic law is maintained in the minority context.

The substantive justice model practiced by the Gorontalo community in Ternate Tanjung demonstrates an important shift in adat-Islamic Constitutional Law, particularly in understanding the meaning of justice. This model differs fundamentally from procedural justice dominant in Gorontalo customary law and classical inheritance *fiqh*, where justice is identified with compliance to established formal rules, regardless of parties' acceptance. In the Ternate Tanjung context, justice is defined as a deliberative outcome collectively agreed upon through family deliberation and felt to be fair by all involved parties. As explained by Abdul Muis, "for example, a son is already economically established, while a daughter is unmarried and does not have permanent employment. In family deliberation, it was agreed the daughter receives a larger share because she needs it more. Although different from classical inheritance *fiqh* or Gorontalo custom, what is important is that everyone agrees and no one feels wronged." This example shows that family deliberation functions as an informal constitutional mechanism that enables flexible distribution of justice based on concrete socio-economic conditions of heirs. From a Constitutional Law perspective, this approach affirms that legitimacy of justice does not solely derive from formal procedures, but from social acceptance and actual public welfare. This model aligns with the '*adl* principle in Islam which emphasizes substantive and contextual justice, not rigid procedural justice (Kamali, 2021), while demonstrating constitutional adaptation of adat-Islamic law in the minority context.

The role of the Office of Religious Affairs (KUA) in dispute resolution and inheritance distribution mechanisms in Ternate Tanjung demonstrates an important configuration in local Constitutional Law in the minority context. KUA functions as a hybrid constitutional institution that bridges community legitimacy and state legitimacy. As a state institution, KUA provides formal ratification of decisions related to marriage and inheritance; while as an institution operating based on Islamic law and managed by Muslim officials, KUA is accepted by the community as a normatively legitimate religious authority. As explained by Ramyan, "if there is an inheritance dispute that cannot be resolved through family deliberation, we usually bring it to KUA for mediation. The KUA registrar helps find fair solutions based on Islamic law and also considers family conditions." This practice shows that KUA's function is not merely administrative, but also carries out a non-litigation constitutional role in resolving internal conflicts of Muslim minority communities. From a *Fiqh al-Aqalliyat* perspective, this role aligns with the strategy proposed by Taha Jabir al-Alwani regarding utilization of state institutions compatible with Islam (Al-Alwani, 2003). Rather than building parallel institutions potentially unrecognized by the state, Muslim minority communities utilize existing constitutional institutions to ensure the continuity of adat-Islamic law functions. Thus, KUA provides dual sociological and juridical legitimacy that strengthens the continuity of the living constitution of adat-Islamic law in the structural minority context.

Thus, the institutional transformation from *Bumutulo Taulongo* which is formal-constitutional in Gorontalo toward informal deliberation in Ternate Tanjung cannot be understood as degradation or loss of the living constitution of adat-Islamic law. On the contrary, this transformation represents rational and contextual constitutional adaptation within the pluralistic Constitutional Law framework, demonstrating the resilience of fundamental values such as shura, 'adl, *maslahah*, and sulh despite lacking formal institutional support. The model of living values without formal institutions affirms that the continuity of living constitution does not always depend on formal state or customary institutional structures, but on the continuity of constitutional functions—collective decision-making, dispute resolution, and justice regulation—effectively implemented at the community level. In the minority context, these functions are realized through non-formal mechanisms such as family deliberation, mediation by religious figures, sub-district officials, and KUA as state institutions compatible with Islam. *Fiqh al-Aqalliyat* principles such as *tadarruj*, *maslahah mursalah*, and utilization of state institutions not contradicting sharia provide normative-theological legitimacy for this transformation, affirming that institutional flexibility is part of legitimate constitutional strategy (Subhan et al., 2024; Djawas et al., 2024). Therefore, comparative analysis between majority and minority contexts becomes key to understanding living constitution dynamics within an adaptive and inclusive Constitutional Law framework.

### **Comparative Analysis of Adat-Islamic Constitutional Law and the Living *Fiqh al-Aqalliyat* Model: Resilience of Constitutional Values Across Demographic Contexts**

The previous four discussions have comprehensively elaborated how Gorontalo customary law functions as a local constitutional law system (living constitution) in two fundamentally different demographic configurations, namely the Muslim majority context (98.1%) in Gorontalo Province and the Muslim minority context (31.9% at city level and 86.7% at sub-district level) in Manado City. The first and second discussions show that in the majority context, Gorontalo customary law operates assertively and institutionally through *Bumutulo Taulongo* as a customary constitutional institution with dual legitimacy, both sociological-customary and formal-state, so that Islamic

values can be fully articulated in local public governance. Conversely, the third and fourth discussions reveal that in the structural minority context, customary constitutional law functions undergo institutional transformation, marked by active interfaith tolerance, ritual simplification based on *yusur*, absence of formal customary institutions, and dispute resolution and inheritance mechanisms based on deliberation and substantive justice. This section subsequently conducts comparative constitutional law analysis to formulate a living constitution model adaptive to demographic contexts, while integrating *Fiqh al-Aqalliyat* principles as a framework for understanding Muslim minority community constitutional adaptation strategies.

Table 1 below summarizes comparative findings from the previous four discussions by positioning Gorontalo customary constitutional law as the main analytical framework across six dimensions: demographic, institutional, tolerance, normative, praxis, and youth identity. This analysis confirms that the fundamental difference between majority and minority contexts does not lie in the core values forming the local constitution, but rather in how these values are institutionalized, implemented, and legitimized within governance structures and community power relations. Thus, variation in demographic context affects the operational form of customary constitutional law, not its normative substance.

**Table 1. Comparative Analysis of Gorontalo Customary Law: Majority vs. Minority Context**

Dimension	Majority (Gorontalo Province)	Context	Minority Context (Ternate Tanjung, Manado)
<b>Demographic</b>	Absolute Muslim majority (98.1%); enables assertive and formal adat-Islamic operationalization	majority law	Multi-level minority: 86.7% (subdistrict majority), 57.4% (district majority), 31.9% (city minority); requires adaptive strategy across administrative levels
<b>Institutional</b>	<i>Buwatulo Taulongo</i> operates formally with dual legitimacy (customary and state); functions as local constitutional organ	operates	No formal customary institution; constitutional functions carried out through informal deliberation (family, mediators, KUA)
<b>Tolerance Pattern</b>	Not a primary issue due to religious homogeneity; Islamic values dominate without negotiation with other majority systems	without majority	Active tolerance based on <i>muwatanah</i> (Islamic citizenship); mutual protection practices across religions; adhan accepted as shared public sound
<b>Normative Foundation</b>	Adati-Syara'-Qur'ani principle as grundnorm; Islamic		Same Adati-Syara'-Qur'ani principle maintained; implementation through <i>Fiqh al-</i>

	values (' <i>adl</i> , <i>maslahah</i> , shura) explicitly and formally articulated	<i>Aqalliyat</i> principles ( <i>yusr</i> , <i>tadarruj</i> , 'adam al-darar)
<b>Constitutional Praxis</b>	Complex ritual (marriage, death, inheritance); formal dispute resolution through <i>Buwatulo Taulongo</i> ; customary fatwa with dual legitimacy	Simplified ritual without losing essence (based on <i>yusr</i> ); substantive justice through family deliberation; mediation by informal actors and KUA
<b>Youth Identity</b>	Strong identity; adat-Islamic values transmitted through formal institutions, family, and education	"Still exists but not as strong"; challenges in intergenerational transmission; tendency toward hybrid constitutional identity
<b>Legitimacy Source</b>	Dual legitimacy: formal-institutional (state recognition) and sociological (community acceptance)	Primarily sociological legitimacy; formal legitimacy only through state institutions compatible with Islam (KUA)

Source: Interview data and research observation, 2025

Analysis of Table 1 reveals three main findings from an adat-Islamic constitutional law perspective. First, there is fundamental constitutional similarity, namely the Adat-Sharia-Quran principle continues to function as basic norms (constitutional values) in both contexts, demonstrating stability of core values in Gorontalo customary law's living constitution despite significant demographic changes. The values of justice ('*adl*), deliberation (shura), public welfare (*maslahah*), and reconciliation (sulh) remain references for community governance. Second, there are operational constitutional differences, particularly in institutional aspects (formal-informal), praxis (complex-simple), and tolerance patterns (majority dominance-active *muwatanah*), which confirm the adaptive nature of living constitution toward demographic context. Third, *Fiqh al-Aqalliyat* principles provide theological-constitutional legitimacy for this transformation: *tadarruj*, *yusr*, *maslahah mursalah*, and *muwatanah* (Qaradawi, 2001; Al-Alwani, 2003).

Based on comparative analysis from an adat-Islamic constitutional law perspective, this research proposes the theoretical model of Living *Fiqh al-Aqalliyat* to explain the resilience of adat-Islamic law's living constitution across demographic contexts. This model is constitutional-adaptive and consists of four hierarchical levels. The first level (core constitutional values) is fixed, comprising the Adat-Sharia-Quran principle, fundamental Islamic values ('*adl*, shura, *maslahah*, *amanah*), and *Fiqh al-Aqalliyat* principles (*yusr*, *muwatanah*, 'adam al-darar). The second level (constitutional institutions) is flexible: formal and state-recognized in the majority context through *Buwatulo Taulongo*, but informal-deliberative in the minority context through family deliberation, community mediators, and KUA. The third level (constitutional praxis) adjusts to social capacity, from complex to simple without losing substance. The fourth level (constitutional tolerance strategy) shifts from assertive-dominant to active *muwatanah*. This model affirms that living constitution is not monolithic, but constitutionally responsive with stable core values and contextual operational mechanisms (Strauss, 2010; Djawas et al., 2024).

The main theoretical contribution of the Living *Fiqh al-Aqalliyat* model from an adat-Islamic constitutional law perspective is the affirmation that living constitution resilience does not depend

solely on the existence of formal institutions, but on the community's capacity to maintain and practice core constitutional values contextually. In the majority context, local constitutional institutions such as *Buwatulo Taulongo* function as customary constitutional organs that provide dual legitimacy (custom and state), decision-making efficiency, and cross-generational norm transmission. Conversely, in the minority context where formal institutionalization is not possible, constitutional functions are still carried out through informal mechanisms of family deliberation, community actor mediation, and utilization of state institutions compatible with Islam such as KUA. This living values without formal institutions model expands living constitution theory by demonstrating that constitutionalism can live in social practice and collective consciousness without bureaucratic codification (Djawas et al., 2024; Subhan et al., 2024; Zainuddin et al., 2024). This model also enriches *Fiqh al-Aqalliyat* literature through empirical application to domestic Muslim minorities in Eastern Indonesia (Greer, 2024; Nordin et al., 2025b; Rahman, 2019; Srimulyani, 2021).

However, the Living *Fiqh al-Aqalliyat* model from an adat-Islamic constitutional law perspective also reveals long-term sustainability challenges, particularly in the dimension of intergenerational constitutional reproduction. Interviews show that the Gorontalo youth identity in Ternate Tanjung "still exists, but not as strong" compared to the majority context. Ramyan stated that adat-Islamic practices remain present in marriages, deaths, and religious holidays, though not identical to Gorontalo, while Abdul Muis affirmed this as a challenge for the future of living constitution. This phenomenon can be read as generational *tadarruj*, namely gradual change in local constitutional identity due to socio-economic and cultural context (Qaradawi, 2001). The weakening intensity of identity is influenced by the absence of formal customary institutions as means of value transmission, urban cultural acculturation, and young generation orientation toward education and economic mobility. Nevertheless, constitutional pillars remain through mosques, Muhammadiyah schools, kinship networks, and essential rituals. The most likely direction is the formation of hybrid constitutional identity, where substantive Islamic values are maintained, while cultural expression is adaptive (Mulia et al., 2024).

Thus, comparative analysis between the Gorontalo majority context and the Ternate Tanjung minority context produces the theoretical model of Living *Fiqh al-Aqalliyat* which affirms that the living constitution of adat-Islamic law from an adat-Islamic constitutional law perspective is adaptive to demographic configuration and local power structures. In the majority context, customary law operates assertively and formally through local constitutional institutions, while in the minority context it functions flexibly and informally without losing its core constitutional values—Adat-Sharia-Quran, *'adl*, shura, and *maslahah*. This model expands living constitution theory by adding the dimension of constitutional demographic adaptation, while enriching *Fiqh al-Aqalliyat* studies through empirical evidence of domestic Muslim minorities in Eastern Indonesia. Its main empirical contribution is systematic documentation of Muslim minority community constitutional strategies through spatial economic clustering, active tolerance based on *muwatanah*, ritual simplification based on *yusr*, and informal deliberation based on *maslahah* that differs from defensive minority models in Western literature. The Gorontalo-Manado model is relevant as a reference for other Muslim minority communities in Eastern Indonesia and Southeast Asia, and confirms that Islam and plurality can mutually reinforce within an inclusive rule of law framework.

#### 4. CONCLUSION

This research demonstrates that Gorontalo customary law functions as living constitution within the framework of adat-Islamic constitutional law that is adaptive to demographic configurations. In the Muslim majority context (98.1% in Gorontalo Province), customary law operates assertively and formally through the *Buwatulo Taulongo* institution which possesses dual legitimacy of custom and state, thereby functioning as a local constitutional organ. Conversely, in the Muslim minority enclave context in Ternate Tanjung, Manado (86.7% sub-district; 31.9% city), the constitutional functions of customary law are carried out flexibly and informally through family deliberation and ad-hoc mediation by sub-district officials, imams, and the Office of Religious Affairs. The constitutional principle "*Adati hula-bulaa to Syara', Syara' hula-bulaa to Qur'ani*" remains a stable basic value (constitutional values) across contexts, although its constitutional operational mechanisms undergo transformation: from formal to informal institutions, from complex to simple rituals without losing essence, and from majority dominance to active tolerance based on *muwatanah*. This transformation is not degradation, but rather constitutional application of *Fiqh al-Aqalliyat* principles—*yusr*, *maslahah mursalah*, *tadarruj*, and 'adam al-darar—which affirms that constitutional resilience rests on value practices, not merely on institutional structures.

The main theoretical contribution of this research in the field of adat-Islamic constitutional law is expanding the living constitution concept from mere temporal adaptation toward demographic adaptation, namely the capacity of local constitutional systems to adjust to changes in majority-minority positions. This study simultaneously fills the literature gap regarding domestic Muslim minorities in Eastern Indonesia, which differs fundamentally from international Muslim diaspora in the West. The Gorontalo-Manado model demonstrates that Muslim minority communities can maintain adat-Islamic constitutional identity not through defensive and segregative strategies, but through social constitutional mechanisms in the form of organic spatial economic clustering, active tolerance based on *muwatanah* (citizenship), ritual simplification based on *yusr* without losing essence, and informal deliberation based on *maslahah*. This strategy is relevant for other Muslim minority communities in Indonesia and Southeast Asia. The future challenge is intergenerational constitutional reproduction, considering that youth identity is "not as strong as in Gorontalo." This demands strengthening of informal institutions (mosques and Muhammadiyah schools), documentation of adat-Islamic values, and cadre development of community actors who understand *Fiqh al-Aqalliyat*, so that living constitution remains alive within the framework of generational *tadarruj* with Islamic essence preserved even as cultural expression changes.

#### 5. ACKNOWLEDGMENT

The author wishes to express sincere appreciation to all scholars, colleagues, and reviewers whose constructive comments greatly assisted in refining the theoretical development of this study. Their insights were invaluable in sharpening the articulation of the living constitution, particularly its extension toward demographic adaptation within adat-Islamic constitutional contexts. The author alone remains responsible for the remaining shortcomings.

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